

# PROJECT SEARCH: Colorado Case Study Executive Summary<sup>1</sup>

## National Association of State Directors of Special Education

Lauren Morando Rhim  
University of Maryland

### ***Charter School Policy Context***

Charter schools appeared on the American educational scene at the beginning of the 1990s. The charter school movement is grounded in part on the supposition that deregulation can foster the development of new and more effective and efficient public schools. Charter laws differ significantly from one another, but they generally allow teachers, parents, community groups, business leaders, and/or others the opportunity to open a new public school, or convert an existing school, with some degree of independence from established school districts.

Public schools are subject to a complex amalgam of district, state, and federal rules and regulations that have been enacted over the years to assure that all students have access to public education. State charter schools laws can release charter schools from some state and local regulations but cannot supercede any federal regulations that apply to public education. Whether delivering special education themselves or working with their local district, charter schools must abide by all federal and state regulations regarding special education referrals (e.g., IEP development, service delivery in the least restrictive environment and teacher certification requirements). In practice, federal regulations that govern special education are particularly challenging for many charter schools. The purpose of Project SEARCH, of which this case study is a part, was to ascertain how charter schools are implementing federal regulations governing the education of children with disabilities. Specifically, SEARCH sought to examine what state level policies and practices influence individual charter schools' capacity to deliver special education.

### ***Colorado Case Study Methodology***

Project SEARCH researchers conducted an in-depth case study of special education policies and practices in Colorado charter schools between January 1999 and September 2000. Colorado was selected for study because of the length of time charter schools have been operating in the state, the size (i.e., number of schools) of its charter movement and the degree of autonomy granted charter schools from their LEA for purposes of special education. The case study data consisted of state, district, and school-level interviews, focus groups, documents, and visits to 11 charter schools selected based upon their geographic, demographic, and programmatic diversity.

### ***Colorado Case Study Findings Related to Special Education in Charter Schools***

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance,

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<sup>1</sup> This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available on the following web site: [www.nasdse.org/project\\_search.htm](http://www.nasdse.org/project_search.htm)

transportation, and adherence to philosophy and mission. The following is an executive summary of the Colorado case study.

### ***I. State Charter Laws and Regulations***

- Colorado passed its first charter school law, The Colorado Charter Schools Act, in 1993. The Colorado charter school law is continually evolving and it has been amended every year since it first passed. The many amendments to the law reflect a strong pro-charter sentiment at the state level and an effective statewide lobby that is continually working to support charter schools. The law dictates that the local district is the sole charter authorizer and charter schools are considered partially autonomous schools operating within their local district.
- The language in the law dictates that local districts retain ultimate responsibility for special education in charter schools. However, the manner in which special education is delivered is one of numerous issues that are "negotiated" between the district and the charter school.
- Outside of general non-discrimination clauses, the only language pertaining to children with disabilities in the Act pertains to the issue of finance. In line with the federal Individuals with Disabilities Education Act, the Colorado Charter Schools Act stipulates that a "proportionate share of state and federal resources generated by student with disabilities" enrolled in charter schools shall be directed to the charter schools.

### ***II. Charter School Applications and Contracts***

- In Colorado, charter school applicants submit a formal application for a charter and then once approved, negotiate a contract that further stipulates the specifics of their relationship with their sponsor-the local school district. Some districts truly negotiate while others have a boiler plate contract for all the charter schools in their district. Study respondents attributed some districts' lack of flexibility in the contracting process to concerns about charter schools' capacity to independently deliver special education and the fact that LEAs are ultimately responsible for special education in charter schools. District staff was particularly concerned about charter operators' knowledge of IDEA and Section 504 policies and procedures.
- Charter applications were generally characterized as inadequate and vague in terms of how they address special education. A district liaison noted:  
*We review charter applications in general and specific to special education during the application process. Most applicants are fairly weak and fairly general about special education. A 'good' application might mention that they will comply with IDEA.*  
Once chartered, many charter schools reportedly struggle to address the day to day challenges of operating a public school and specifically, the demands of addressing the needs of children with a diverse array of cognitive or physical disabilities
- District representatives and charter operators cited technical assistance and an open dialogue during the application and contract process as central to charter schools' ability to develop special education programs. A district Director of Special Education who reported that he had a good working

relationship with the district's charter schools described the application and contract process in the following way:

*One of the things that we did when we were looking at their proposals and ultimately in our contracts was to build in firewalls for discriminatory factors on any domain. And I was looking much closer at special education because as a special education director, [my] greatest fear was that charter schools would just be ways to escape the responsibility to deliver services to kids with complex behavior and learning problems. And happily, on a macro level, that has not been the case. Our charter schools have a prevalence of kids with disabilities at or above the same levels as our [conventional] public schools.*

### **III. Facilities and Accommodations**

- The Colorado Charter Schools Act stipulates that:  
*In no event shall a charter school be required to pay rent for space that is deemed available, as negotiated by contract, in school district facilities.*  
Nevertheless, securing an adequate facility is reportedly an ongoing challenge for charter operators.
- Given the general challenge associated with securing a facility, designating adequate space for special education can be a challenge.

### **IV. Governance Structure and Relationships Between Districts and Charters**

- Across the districts visited, charter operators and district representatives reported diverse gradations of cooperation and support. For instance, one charter operator characterized her district in the following way:

*I feel like I have complete support from the district, and special ed, special services from the district are fabulous. And they have done a very good job of including me in their meetings and what not so that I feel a part and I feel like I can call upon their services. Our director understands the problems of charter schools and supports [charters].*

Conversely, a principal of a charter school in a different district reflected that:

*There is a lot of ignorance about charter schools amongst rank and file district personnel. For example, we have had problems getting access to records and services that the district offers.*

- The clause in the Colorado law that allows districts to provide surplus facilities to charter schools is a positive provision yet it potentially contributes to the inherent power differential between charter schools and their districts. Because charter schools are part of their district, there is predictable bargaining and brokering regarding various aspects of the charter (i.e., special education, facilities, transportation, and administrative services). In situations where the district provides the charter school with a facility, charter operators reportedly need to be savvy about nurturing their relationship with the district. A state charter advocate noted that: *"Charters are picking their battles. The [the districts] really have the leverage on facilities issues."*

## V. Charter School Finance

- All federal, state, and local education dollars for charter schools flow through their sponsoring district. For the first seven years after the Act passed, districts and their charter schools negotiated the level of funding provided to charter schools. The Act dictated that at a minimum, districts must provide charter schools with 80% of the district per pupil operating revenues (PPOR). PPOR is the financial base of support for public school minus capital reserve, insurance, and potentially other risk-management related costs (Colorado Department of Education, 2000<sup>2</sup>). In 1999, the General Assembly amended the law and mandated that districts fund charter schools at no less than 95% of per pupil revenues (PPR) that include capital outlay and reserve funds.
- The change in funding is reportedly exacerbating, if only temporarily, the tension between charter schools and their sponsoring district. Charter operators perceive the change to be a financial windfall. District staff projects that the funding adjustment will trigger a shift in how districts deliver services to charter schools. Specifically, district staff in multiple districts explained that once they start to forward more funds directly through to the charter schools, they are going to more closely monitor the services they provide to charters and charge charters for services that were previously “free.” A district administrator explained that:  
*The shift from 80-95% is forcing the district to re-evaluate the costs associated with the charter schools. The district produces all this stuff out of the 15%. Now there will be a cost to the charters because they are receiving more of their money.*
- District representatives reported that it is challenging to meet the demands of charter schools while simultaneously meeting the demands of traditional public schools that serve a far greater percentage of the total district population. A district liaison to charter schools explained:  
*The board and the central administration have become more frustrated in the last year. The charters keep coming back for more and more from the district.*  
Along these lines, a state charter advocate commented:  
*Once the schools open, it is a perpetual fight over money.*
- Colorado funds special education using an unweighted formula. This is added to the state's base education funding formula. These funds are disseminated based upon the annual October count.
- Special education risk pooling (i.e., the insurance model) is an increasingly popular practice in Colorado. The insurance model essentially applies a standardized measure to all students who enroll in charter school for the explicit purpose of insuring against the cost of special education for a specific population of students. The cost of the insurance model varies by district but it is typically in the ballpark of \$300-\$500 per student. The two major points of conflict identified by charter operators were whether or not participation in the insurance model is voluntary and the rate actually charged to participate.

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<sup>2</sup> Colorado Department of Education. (2000). 1998-1999 Colorado charter schools evaluation study: The characteristics, status and performance record of Colorado charter schools.

- Discussions with charter operators and district representatives revealed disparate perceptions regarding the risk-pooling model. Numerous charter operators reported that school districts are charging the charters more than the cost of the services provided. Conversely, district representatives reported that rather than profiting from the charter schools, districts are absorbing additional costs associated with supporting the charters and that the districts are providing a great deal of in-kind services (i.e., free informal legal counsel, day to day information and technical assistance) to charter schools.
- Federal IDEA, Part B funds either flow through the district to the charter schools or the district retains the funds and pools them across the district to provide special education services or related professional development. Many charter schools are reportedly unclear about whether they receive IDEA funds or whether the district retains the funds and delivers services. In cases where the charter operators understand that the district retains IDEA funds, many were either unclear or unsatisfied with the manner in which the district distributes the funds in the form of services or professional development. Specifically, charter operators reported that the services and training are not always relevant to charter schools.

## ***VI. Educational Service Delivery***

- In Colorado, charter schools have adopted three models to deliver special education: 1.) the charter school assumes total responsibility for special education, 2.) the district assumes total responsibility, or 3.) the charter school and the district share responsibility. The three approaches each have costs and benefits for both charters and districts depending upon the specifics of the arrangement.
- Districts in Colorado are increasingly requiring that charter schools participate in an insurance model for special education. However, there is nothing in the state law that specifically authorizes the district to require that charter schools handle special education in a specific manner. District staff attribute the popularity of the insurance model to the fact that: according to IDEA, the district is responsible for delivering a “free appropriate public education” and many districts are not willing to delegate that responsibility to charter schools.
- Of the 11 charter schools visited for this study, five reported that they operate a full-inclusion model and the remaining six reported that they provide some special education services on a pullout basis. Nearly all of the charter schools that described their special education model as “full-inclusion” appear to be offering a somewhat generic as opposed to an individualized program. District administrators expressed concern about the perception on the part of charter operators and some parents that “individualized learning,” (typically represented by small classrooms or self-driven work) addresses student’s special education needs. A district director of special education lamented:  
*Some [charter schools] are naïve about what special education needs are—individualized learning does not fix it all.*
- Charter schools are part of a Board of Cooperative Education Services (BOCES) if their authorizing district is a part of the BOCES. In these charter schools, the BOCES provides administration and related services for special education but the charter schools remain responsible for day to day

service delivery. Although there is some variation among the BOCES, in general, in traditional as well as charter schools, the BOCES receive federal, and state money, and it provides related services. Schools are expected to hire their own special education from the PPOR, now PPR, that represents their local contribution to special education, and the BOCES covers all the other related services.

- Discussions with state, district, and school level personnel revealed that charter schools periodically “counsel-out” students with disabilities. While study participants attributed the practice to a variety of factors from lack of knowledge about special education, to inflexibility in charter schools’ instructional models to inadequate human and fiscal resources. Regardless of the cause, “counseling-out” is potentially illegal and is counter to the spirit and letter of IDEA as well as the Colorado Charter Schools Act. Additional discussions with study participants revealed that the notion of “counseling-out” encompasses a gray area between discrimination and determining the best educational program for a particular child with a disability. In general, charter schools are struggling to balance their individual mission with the rules and regulations stipulated by IDEA and specifically the accommodations that may be necessary to educate individual children with disabilities. A CDE official reflected on the challenge of balancing individual needs with charter schools’ instructional programs in the following way:

*[Some charter schools] strategically write their charters to exclude students with disabilities and how do we honor the charter's autonomy and ensure access? Sometimes the issues are honest issues and the school is not a good fit...at the other extreme are schools that really don't want to take students with disabilities and then they get into conflict with [the] district and parent over how much accommodation is reasonable to expect.*

## **VII. Data Collection and Accountability**

- The state of Colorado has an accountability system that incorporates state standards, standardized assessments [the Colorado Student Assessment Program (CSAP)], and high stakes reporting. CSAP is administered in grades 3, 4, 7 and 10. In addition to the state mandated CSAP, individual public schools administer a variety of standardized tests to track student progress. According to the 1999 CDE charter school evaluation, charter schools scored above the state average and their authorizing districts’ on all CSAP assessments (Colorado Department of Education, 2000).
- Charter schools are legally obligated to participate in the state fiscal and academic accountability system as well as a state charter school accountability system.
- The primary tool to collect data and specifically track charter schools in Colorado is the annual report and evaluation mandated by the Colorado Charter Schools Act. The most recent evaluation contains data from the 1998-1999 academic year. The evaluation reports data regarding: characteristics of charter schools, their students and teachers, governance of charter schools, parent participation in charter schools, student achievement and school performance, waivers of state law granted to charter schools, funding of charter schools and the parties from whom charter schools obtain services, lessons learned by charter schools, and ongoing technical assistance needs of charter schools

(Colorado Department of Education, 2000). Data regarding special education in charter schools are embedded in these various categories.

- The state law does not specifically mandate that special education be considered as part of the charter renewal process outside of general questions regarding addressing the charter's goals and objectives and assessment of student performance. As a result, individual districts determine the degree to which special education is part of the renewal process.
- Charter schools are incorporated in the LEA and state special education monitoring system. When the state conducts special education audits charter schools participate the same as traditional public schools. Overall, charter operators perceive that in terms of special education accountability, districts and the state are generally reactive rather than proactive in terms of monitoring compliance issues. The state conducts two types of special education audits, a program audit and an account audit. A BOCES Director characterized the two audits as:  
*One is a program audit [that looks] at your service delivery model and how you provide services and are you in compliance with the law and so forth. And they'll cite compliance issues and you have 90 days to give them a report on how you're going to rectify the compliance issues. They'll identify concerns and make recommendations. Most of the time it feels like it's not real punitive. It's intended to be supportive and helpful. And the account audits are the ones that really matter in terms of funding. And that's when they come in and look at your paperwork. Did you dot your i's and cross your t's. And if you didn't, you can lose money.*
- Charter operators did not express concern or trepidation about state special education audits. However, district operators expressed some apprehension about the audit and potentially being held accountable for special education in charter schools that they have limited control over.

### **VIII. Staffing**

- There is significant variability by district in terms of availability of special education staff. Some of the larger urban districts are reportedly not struggling with hiring special education staff while more rural districts are struggling to hire and retain certified special educators as well as general educators. Study participants cited low salaries, limited benefits and poor job security as key challenges to hiring special education staff. Hiring and retaining special education teachers is reportedly further complicated by the fact that charters, due to their small size, typically only hire one special educator. Special education teachers that participated in a focus group lamented that they are sometimes isolated in their schools because they do not have a cohort of peers with whom to share special education teaching experiences and issues.
- In districts that utilize the insurance model, the district provides special education teachers and related services professional to the charter schools. In cases where the district is hiring staff that will work in the charter school on a daily basis, the relationship appears most amicable when the charter school has some involvement in the hiring process. In some districts, a district supervisor observes and assesses the charter school special education teacher.

- Charter schools typically recruit teachers from the local district, hire retired and itinerant teachers, or contract with private providers. When charter schools purchase special education services through the district they can generally access a wider variety of special education and related services professionals.

### ***IX. Technical Assistance***

- The primary source of technical assistance for charter schools on a wide array of issues is their sponsoring LEA. Individual districts have developed technical assistance networks that range from simply sending forms to charter schools to sponsoring monthly meetings with charter school administrators and district staff. Charter operators report uneven access to various district activities and in particular, professional development activities. In the two districts that convene charter school administrator meetings, charter operators reported that the meetings are helpful venues in which they can network with other charter operators and stay abreast of larger district issues. Other districts provide technical assistance to charter schools on a more reactive, as needed basis.
- CDE has two staff members who are primarily responsible for charter school issues. Study participants generally complimented the CDE and describe the Department as “charter friendly.” The Department’s website is informative and contains a number of documents to support charter applicants and charter school operators. CDE does not have a special education “consultant” or “expert” devoted to charter school activities.
- The Colorado League of Charter Schools predates the first charter school in the state and “is organized around the need of our growing constituency” (Colorado League of Charter Schools, 2000). The League functions as an advocate for charter schools collectively and a key source of technical assistance for charter schools individually. The League also organizes the annual state charter school conference.
- A group of six rural Colorado charter schools formed a network to collaborate to support one another. The Rural Charter School Network is reportedly an important “lifeline” for its rural members. The network has successfully applied for a number of grants that assist the individual schools develop and support their instructional program. To date the network has not collectively addressed special education issues.
- A number of Colorado charter schools have successfully applied for federal Comprehensive School Reform Demonstration (CSRD) grants. A principal of a school with a CSR grant spoke highly of the many benefits associated with being affiliated with an established school model. The principal explained that in terms of technical assistance, the particular school model that they have adopted through the CSRD program is frequently her first source for technical assistance. Furthermore, the requirements associated with the CSRD program reportedly prepared the school to effectively evaluate itself.

## ***X. Transportation***

- Colorado charter schools are not required to provide transportation to their students and in fact, most charter schools are not providing transportation. Study participants cited the high cost of transportation as the primary reason charter schools don't provide transportation. The few schools that reportedly are providing transportation either contract with the local district or provide vouchers for public transportation. The state provides a "limited" amount of funding to reimburse charters and districts that transport children.
- If a child's IEP stipulates that transportation is a related service, the child's school is required to provide transportation. However, discussions with charter operators revealed that charter schools generally don't provide any transportation, even to children with IEPs that require it as a related service. Charters reportedly justify not offering transportation because they are schools of choice and part of a parent's choice is knowing that, if they want their child to attend the charter school, they must provide or arrange for transportation. When probed about this policy, a special educator from a charter schools explained that:

*If it's on the IEP when we get a kid, then I let them know that we can't provide it. That- we don't have those services... We only have one child who needs transportation and the parents agreed to provide it.*

The notion that choice enables a charter school to limit its services was a common sentiment expressed in multiple districts. A district director of special education in a different district corroborated the teacher's statement in the following way:

*The transportation of special education [students] issue, charter schools are schools of choice, if a parent makes a choice, they have to provide their own transportation to the school.*

The exception to this statement is if a district places a child with a disability at a charter school. In this case, the district would provide transportation.

## ***XI. Adherence to Philosophy and Mission***

- Charter schools in Colorado offer a wide array of academic models. Unlike traditional public schools, many charter schools define themselves by their model, e.g., as a Padeia school or a Core Knowledge school. Charter operators struggle to balance to what degree they must modify their curriculum to serve children with disabilities while honoring their larger goals and objectives. A charter school operator expressed her dilemma that reflects the sentiments of many charter operators who participated in the study:

*I mean, if I have a kid who is coming from a self-contained classroom I really sit down with the parent and let them know, because we're all inclusion, project-based, inter-disciplinary curriculum, [our model] is a wild kind of curriculum and it's not appropriate for a lot of kids. They would just be left behind and there's a lot of self-starting that needs to happen. And it was a real struggle because for me—if you want to come to our public school come on in, we've got to accept you.*

- Charter operators perceive that parents frequently shop around for a different or better option for their children with disabilities and may select a charter school because it is different rather than

because it necessarily meets the children's needs. The fact that certain charter schools in Colorado are attracting disproportionate numbers of children with mild disabilities appears to support charter operators' perceptions. From the perspective of district staff, the disconnect between what parents want and what charter schools may offer raises questions about what services charter schools provide to children with disabilities. A BOCES director explained:

*I think that sometimes the charter schools get the most difficult students that we have in the district. They're not successful in a public school and so parents pull them out and they go to a charter school, and consequently they [the charter] have a high-risk population. Sometimes on the IEP, it doesn't fit into their schedules because they're so unique. I have nothing against creativity, but in the past there have been some concerns about, are children really getting the services they need? And there's also sometimes a misunderstanding of "we don't have to create this program if there's one in the public school."*

- Contrary to concerns raised during Project SEARCH's initial policy scan, the potential rift between charter school and district assigned special education staff appears to be a minor or non-issue. Discussions with charter schools staff, including special education teachers and district staff verified that in the districts visited, district staff and charter school staff are generally working together to hire the teachers assigned to charter schools via the insurance model or on a case by case contractual basis. A state level charter advocate explained:

*In practice, if a student enrolled in a charter is referred to special education, the charter schoolteacher, in accord with IDEA is included in the IEP process as their classroom teacher. District level personnel are also involved. In some cases, district hired personnel are more affiliated with the charter because they are assigned to work at the charter most of the time.*

#### **Summary-Major Issues Influencing Colorado Charter Schools' Special Education Capacity**

The case study of Colorado charter schools' capacity to deliver special education revealed a plethora of data regarding various challenges that charters and districts struggle to address. However, based upon our cross-state analysis of eight states policies and practices, the key issues influencing Colorado charter schools' capacity to deliver special education are:

- Districts and charter schools must negotiate to determine how to deliver special education in charter schools. There are inherent tensions underlying the negotiations stemming from districts' legal obligations due to IDEA and the charter schools' desire for autonomy.
- The application process is the key opportunity for districts and charters to address the innumerable details associated with their relationship.
- Technical assistance is central to charter schools developing the capacity to deliver special education.

Charter school finance and specifically special education finance is an ongoing challenge.